IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9284 OF 2004

Arjunsingh Dhansingh Rajput ...Petitioner

Versus

M/s. Colour-Chem Ltd. & Ors. ...Respondents

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Mrs. Gayatri Singh counsel for Petitioner

Mr. P.K. Rele with Mr. Piyush Shah with Mr. P.N. Anaokar counsel for Respondent Nos. 1 and 2.

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CORAM: B. H. MARLAPALLE, J.

DATED: 19TH JANUARY, 2005

P.C.:-

1. Heard Mrs. Gayatri Singh the learned counsel for the petitioner and Mr. Rele the learned senior counsel for the respondent company. Being aggrieved by the order passed by the Industrial Court rejecting the applicatin for interim relief, the petitioner has approached this Court.

2. By an order dated 13.7.2004 the petitioner came to be transferred from the company's factory at Thane to the factory at Roha with immediate effect. This order was challenged in complaint (ULP) No. 199 of 2004 alleging that the said order amounted to an act of Unfair Labour Practice under Items 3, 5, 9 and 10

of Schedule IV of the M.R.T.U. and P.U.L.P. Act, 1971. In the said complaint, application for interim relief i.e. stay to the order of transfer was also filed which has been rejected.

3. The learned Member of the Industrial Court referred to the decisions relied upon by the respective parties and by referring to the following clause incorporated in the settlement dated 25.2.2004 between the management and the Union representing the Thane factory employees held that the Management had the right to transfer any employee covered by the said settlement from Thane factory to Roha factory.

> "The Management shall, at its sole discretion, transfer any workman from Thane factory to the Company’s factory at Roha or to any of the Company’s Branches or establishments in India or to its subsidiary, Vanavil Dyes and Chemicals Limited (at Cuddalore), Tamil Nadu."

4. There is no dispute that the settlement has been signed with the recognised union under the M.R.T.U. and P.U.L.P. Act, 1971 and, therefore, it is binding on all the employees working in Thane factory. The

right of the Management to transfer the petitioner from Thane factory to the Roha factory was prima facie, thus established. On the point of malafides or financial loss etc. the complaint will have to be examined on the basis of the evidence that may be lead by the respective parties. The view taken by the Industrial Court in rejecting the application for stay to the transfer order does not suffer from any errors apparent on the fact of the record and therefore, it does not call for any interference in this petition under Article 227 of the Constitution of India.

6. Petition is hereby rejected summarily and it is clarified that the pending complaint will have to be decided on its own merits and without being influenced by any of the observations made in the impugned order or in this order. Ad interim order of status-quo stands vacated. Oral application for further stay is rejected.